

## **Fiscal Impact Analysis**

### **NC Division of Health Service Regulation**

**Agency Proposing Rules:** DHHS, Division of Health Service Regulation (DHSR)

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**Title of Rules and Statutory Citation:**

Overnight Respite in Certified Adult Day Care Programs 10A NCAC 14D .0101-.0801 (see proposed text in Appendix 1)

**Statutory Authority for Rule Adoption:** Session Law 2011-104

**Fiscal Impact:**

Local Government:	None
State Government:	Yes, minimal impact
Private Sector Entities	Yes
Substantial Economic Impact:	Yes

**Introduction/Background for Rule Change:**

The Division of Health Service Regulation is named as the regulatory agency for a three year pilot program that allows a total of four certified adult day care programs to provide overnight respite services for adults. The Secretary is named in the law as having the duty and authority to adopt rules to implement the three year pilot program. Once the three year pilot has concluded, the legislature will make the decision to continue the program or not based on the success of the pilot programs. The rule for the program may stay in place if the program is continued, however, they may be changed or repealed depending on the decisions of the legislature and program outcomes.

Overnight respite in certified adult day care programs is a new concept and the Department is to choose up to four programs to pilot the overnight respite concept. Participation in the overnight respite program is not mandatory but is strictly voluntary. The overnight respite program provides caregivers the benefit of much needed respite breaks from their role of constant caregiving for a loved one with a disability or medical condition. This may be for one night or for multiple nights. Although this is a benefit to some clients and families, others may not be able to afford this service as it is a private out-of-pocket expense.

These rules are being adopted by the Secretary of the Department of Health and Human Services and will be enforced by the Division of Health Service Regulation. Session Law 2011-104 required the Division to select four adult day care programs to participate in a pilot program and those programs to have an initial inspection by January 1, 2012. Temporary rules were approved and put in place effective January

1, 2012; therefore, the current submission is for permanent rules to take effect when the temporary rules expire, which should be no later than September 30, 2012. These rules only pertain to the pilot program

### **Summary of Anticipated Fiscal Impact:**

As mentioned previously, the temporary rules are currently in effect and the permanent rules that are now being submitted will apply to the four certified adult day care programs that have already been chosen and admitted to the pilot program pursuant to Session Law 2011-104. Participation in the pilot program is strictly voluntary and is not mandatory for any certified adult day care program in North Carolina. Table 1 below presents a summary of the estimate costs and benefits to the different entities involved.

**Table 1. Summary of Estimated Impact on Affected Parties\***

<b>Entity and Impact</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>
<i>Costs</i>			
State government			
- Inspection costs	\$11,900	\$9,500	\$9,500
- Annual report costs	unquantified	unquantified	unquantified
Providers			
- Capital expenses	\$ 49,400	\$ 0.00	\$ 0.00
- Annual operation costs	\$ 70,600	\$ 70,600	\$ 70,600
- Other fixed and variable costs	unquantified	unquantified	unquantified
<b>Total</b>	<b>\$ 131,900</b>	<b>\$ 80,100</b>	<b>\$ 80,100</b>
<i>Benefits</i>			
Providers – revenue from service	\$ 600,000	\$ 600,000	\$ 600,000
Public	Unquantified benefits from freeing up current caregivers of future overnight respite patients	Unquantified benefits from freeing up current caregivers of future overnight respite patients	Unquantified benefits from freeing up current caregivers of future overnight respite patients

*\* Table 1 Note: Given the lack of available information the estimates impacts assume that the reoccurring costs and benefits would stay constant over the three years. Also, the numbers above do not provide a complete picture as information is lacking about some of the costs and benefits the four programs are expected to incur.*

### **Impact on Local Governments**

Theses rules have no fiscal impact on local governments.

### **Impact on State Government**

There is a non-substantial fiscal impact of these rules on state government in the form of the opportunity cost of state employee staff time and resources to review facility design and construction plans and conduct inspections of these pilot programs. Session Law 2011-104 requires that each pilot site be inspected initially, then every six months thereafter by the Division of Health Service Regulation. Inspections will include staff from the Adult Care Licensure Section and the Construction Section.

Although the Division has determined it will be able to complete these inspections with existing staff and resources, the opportunity cost of these inspections is calculated as follows:

**1) Review of plans by Architect and Engineer**

Review would be completed by one Architect and one Engineer (assumed to be at the journey salary level)

Based on current retirement, social security and health insurance rates (for SFY2012-13), a Architect and Engineer annual salary at the Journey level is about \$75,500, which with fringe benefits (the total benefits contribution for FY2012-13 is set at 34.1%) is equal to a total compensation of \$101,245. Therefore, the estimated hourly wage for the Architect or Engineer working 40 hours per week is \$48.67/hour (\$101,245/2080 hours).

**Construction Staff time for Review and Initial inspection**

**Review Time**

Review by one Architect and one Engineer at 4 hours each for a total of 8 hours

One time cost for review time of Respite programs.

Total of 8 hours staff time x 4 respite programs

$$8 \times \$48.67 \times 4 = \$1,557$$

**Review preparation and report writing**

Review preparation and report writing will take an estimated 2 hours for each person totaling 4 hours

This includes review preparation, writing reports, creating and sending letters and emails, and recording time spent in review activities.

One time cost for review preparation and report writing.

Total of 4 hours per respite program x 4 respite programs

$$4 \times 48.67 \times 4 = \$779$$

**Construction Inspections**

Inspection by one Architect and one Engineer 4 hours each for a total of 8 hours. Inspections (to be completed every 6 months) will be conducted by one Architect and one Engineer taking an estimated 4 hours each to complete for a cost of about \$389 (\$48.67 x 8 hrs.) per inspection.

$$\text{Annual cost: } 8 \text{ inspections per year} = \$3,115 (\$389 \times 8)$$

**Inspection preparation and report writing**

Inspection preparation and report writing will take an estimated 2 hours for each person totaling 4 hours.

This includes writing reports, creating and sending letters and emails, and recording time spent in survey activities.

Cost of Inspection preparation and report writing of Respite programs

Total of 4 hours each for 8 inspections per year

$$195 (4 \times 48.67) \times 8 = \$1,558$$

### Construction Travel time

Travel time is calculated based on staff time valued at \$48.67/hour and \$0.36 per mile to travel by vehicle from the Raleigh office to the pilot program site. Note that this travel time is based on data from the MapQuest website ([www.mapquest.com](http://www.mapquest.com)) and does not account for other factors including traffic issues and car maintenance. The travel time to the four sites is:

- Pilot Site #1 (Raleigh, NC): 26 minutes roundtrip (20 miles)
- Pilot Site #2 (Shelby, NC): 7 hours 10 minutes roundtrip (420 miles)
- Pilot Site #3 (Wilmington, NC): 4 hours 10 minutes roundtrip (265 miles)
- Pilot Site #4 (Asheville, NC): 8 hours 10 minutes roundtrip (501 miles)

Total travel time for one inspection is: 19 hours 56 minutes

Total cost of staff travel time for 1 initial inspection per program = (19 hours 56 minutes x 48.67 X 2 people) \$1940 + (1206 miles x .36 miles) \$434 = \$2,374

- Meals  
By state policy, there would be no reimbursement of staff meals during these inspections as there is no overnight stay necessary
- Lodging  
By state policy, there would be no reimbursement of staff lodging during these inspections as there is no overnight stay necessary.

### Total Cost of Construction Staff Time and Other Resources

<b>Total Cost of Staff Time:</b>	<b>\$8,948</b>
Review Time	\$2,336
Inspection Time	\$3,115
Office time:	\$1,557
Travel time:	\$1,940

<b>Total Cost of Other Resources:</b>	<b>\$434</b>
Travel (vehicle use):	\$434
Meals:	\$0.00
Lodging:	\$0.00

**Total Construction Section Cost : \$9,400 per year (\$7,000 annually—without one-time review)**

### 2) Inspection by FSC-1 Personnel

Inspections would be completed by a Facility Survey Consultant I (FSC-1).

Based on current retirement, social security and health insurance rates (for SFY2012-13), a FSC-1 making \$50,960 annually with fringe benefits (the total benefits contribution for FY2012-13 is set at 34.1%) is equal to a total compensation of \$68,337. Therefore, the estimated hourly wage for the FSC-1 working 40 hours per week is \$32.85/hour (\$68,337/2080 hours).

### Staff Time

*\*Figures calculated on annual cost of 8 inspections (4 pilot programs to be inspected 2 times a year)*

- Inspection time  
Inspections (to be completed every 6 months) will each take an estimated 6 hours to complete for a cost of about \$197 (\$32.85 x 6 hrs.) per inspection.  
  
Annual cost: 8 inspections per year, each taking 6 hours= \$1,576 (\$197 x 8)
- Inspection preparation and report writing  
Inspection preparation and report writing will take an estimated 2 hours for each inspection. This includes pre-inspection preparation, writing reports, creating and sending letters and emails, and recording time spent in survey activities.  
  
Annual cost: 8 inspections, each requiring 2 hours of office time= \$526 (\$32.85 x 16)
- Travel time  
Travel time is calculated based on staff time valued at \$32.85/hour (\$0.55/minute) to travel by vehicle from the closest ACLS regional to the pilot program site. Note that this travel time is based on data from the MapQuest website ([www.mapquest.com](http://www.mapquest.com)) and does not account for other factors including traffic issues and car maintenance. The travel time to the four sites is:
  - Pilot Site #1 (Raleigh, NC): 13 minutes roundtrip
  - Pilot Site #2 (Shelby, NC): 90 minutes roundtrip
  - Pilot Site #3 (Wilmington, NC): 80 minutes roundtrip
  - Pilot Site #4 (Asheville, NC): 12 minutes roundtripTotal travel time for one inspection is: 195 minutes

Total cost of staff travel time for 8 inspections per year = \$214 (195 minutes x 2 inspections/year x \$0.55 staff time).

### Other Resources

- Travel cost  
Travel cost is calculated as travel to and from the ACLS regional office closest to the pilot program site using a state vehicle at \$0.36 per mile as determined by the Motor Fleet Management Division. The roundtrip distance to each site is:
  - Pilot Site #1 (Raleigh, NC): 20.38 miles
  - Pilot Site #2 (Shelby, NC): 154 miles
  - Pilot Site #3 (Wilmington, NC): 126.76 miles
  - Pilot Site #4 (Asheville, NC): 18.32 milesTotal miles traveled for one inspection is: 319.46 miles  
Total mileage cost for 8 inspections per year = \$230.
- Meals  
By state policy, there would be no reimbursement of staff meals during these inspections as there is no overnight stay necessary.

- Lodging

By state policy, there would be no reimbursement of staff meals during these inspections as there is no overnight stay necessary.

Total Cost of Staff Time and Other Resources

<b>Total Cost of Staff Time:</b>	<b>\$2,316</b>	<b>Total Cost of Other Resources:</b>	<b>\$230</b>
Inspection time:	\$1,576	Travel (vehicle use):	\$230
Office time:	\$ 526	Meals:	\$0.00
Travel time:	\$ 214	Lodging:	\$0.00

**Total Opportunity Cost to State Government: about \$2,500 per year.**

In addition, since the Law states “The State is not authorized to pay for any overnight respite services offered through this pilot, and the pilot shall not be eligible to enroll or otherwise participate in the Medicaid program,” there are no other anticipated costs to the Department, State of North Carolina, or local governments in paying for these services.

It should also be noted that a small amount of time was spent by DHSR staff in reviewing the applications that were submitted for this pilot program and choosing the finalists. The total amount of time is unable to be determined.

Also, Session Law 2011-104 directs DHSR to submit an annual report on the pilot program to the Program Evaluation Division. It cannot be estimated how much time it will take to complete these reports as the reports would likely include interviews with program participant providers and program participants and their families.

**Assumptions:**

The figures calculated above are based on the following assumptions:

- Staff time is based on minimal inspection outcomes, meaning that no significant problems or issues with non-compliance will be identified. When this is the case, less staff time is used to conduct the inspection and is spent on report writing once back in the office.
- That there will be no follow-up inspections required or complaints received by the Division about the pilot programs that would require staff to conduct additional investigations during the year in between 6 month inspections.
- That there will be no physical environment issues that will require an additional investigation by the DHSR Construction Section.
- The benefits contribution for state government staff would stay constant at 34.1% for the next three years.

If these assumptions do not hold in reality, then the cost to the state could be higher than the estimated total of \$9,500-11,900 per year.

**Impact on Private Entities**

The costs to the chosen certified adult day care programs to meet the rule requirements will differ since there is some variation in the capabilities and 'readiness' of the four programs. The pilot program is the first time this service has ever been allowed to be provided in a certified adult day care program. Note that for the purpose of this analysis, the cost already imposed by the temporary rules is discussed, as much as possible, in this fiscal note.

The greater part of the requirements imposed by the rules are the same requirements found in the rules that currently govern the adult day care center or the requirements of the NC Building Code.

Requirements that would result in an additional cost are expected to have a small impact on the participants in the pilot program. It should be noted when the Department was choosing the four sites for the pilot program, it scored the applications of interested providers so that the four providers chosen had the best chance of success with minimal expenditures. For example, the rules require the facility being used for the overnight respite program to be sprinkled as a fire safety measure. All four facilities chosen for the pilot program were already sprinkled which saved these providers from having to install sprinkler systems that sometimes require financial expenditures up to \$50,000.

At the time of this fiscal analysis, none of the four pilot programs are serving residents in the overnight respite program. Upon interview, each program indicated they are working on construction, budgeting and programming issues to be in compliance with rules and to get the program started. Each pilot was able to provide some information on the estimated costs of start-up and some projected costs and revenues once the program is operational. The programs emphasized that the information they provided is only an estimate, and much of the information was not available or could not yet be determined. Also, costs for items such as the application process and initial building construction are one-time expenses and will not be incurred year after year. The information the pilot programs provided is as follows:

**Table 2. Summary of Program Expenditure and Revenue Estimates**

	<b>Pilot Program #1</b>	<b>Pilot Program #2</b>	<b>Pilot Program #3</b>	<b>Pilot Program #4</b>
<b><i>Expenditures</i></b>				
Estimated Cost of Application Process	\$530	***	\$900	***
Estimated Cost of Initial Building Requirements	***	\$23,000	\$25,000	***
Estimated Cost of Hiring New Staff Per Year	\$19,200	\$42,036	***	***
Notes on staff costs:	(\$10/hr for 8-hour shifts. No information regarding fringe benefits, number of shifts per staff person, or number of staff needed provided. Program estimates they will serve 5 clients per day for 20 days per month. Estimate assumes 1 new staff person hired at \$1,600/month.)		(\$10.50 per hour. Will need 3-4 new staff. No estimate of # of staff hours needed provided.)	(Will need to hire new staff.)
Estimate of Other Operational Expenses (food, office and medical supplies, cleaning products, etc.)	***	\$9,330	***	***
<b>Total Reported Expenditures</b>	<b>\$19,730</b>	<b>\$74,366</b>	<b>\$25,900</b>	<b>***</b>
<b><i>Revenue</i></b>				
Estimated # of client nights per year	1,200	2,400	***	***
Cost of service per night	\$200	\$150	***	***
Estimated time it will take for provider to recoup initial expenses	***	3 years in operation	1.5 years in operation	***
<b>Total estimated annual revenue</b>	<b>\$240,000</b>	<b>\$360,000</b>	<b>***</b>	<b>***</b>

Note: \*\*\* indicates that the program was unable to estimate at this time.



## **Risk Analysis**

A ‘risk’ is a factor or possible event that may jeopardize the anticipated benefits or increase the cost of the rule change. Below are possible risks associated with the overnight respite pilot program and the impact these risks may have on the program, its participants, and other entities that may be affected.

- There is uncertainty regarding the costs and benefits of the overnight respite program because there is no data or information on which to base estimates. The four pilot program providers are not yet serving clients in the program and were not able to share precise projected budget information. We are unable to project what the costs and benefits of this program would be.
- There is uncertainty regarding the number of consumers that would utilize the overnight respite program service. Some of the programs estimated how many clients they expect to serve per month (and the number of nights for each client), however, it cannot be predicted whether these estimates would be reality. It could reasonably be assumed that this program would be a valued service in these communities and that as the program is in operation for a period of time, and is marketed to the community, that the number of participants would increase over time. An increase in the number of participants would mean increased revenues for the participant providers.
- There is uncertainty regarding the impact this program would have on the caregivers of those who would use this service. Currently, the service is funded by private payment only, which may affect the frequency of use by caregivers who may not be able to afford the fees. However, the service is anticipated to be of value to caregivers who need a break from stressful caregiving duties to attend to personal matters and reduce caregiver burnout.

Also, a factor to consider that would affect the participation in the program and the value of the service to caregivers, is that some program participants have indicated that in the future they intend to apply for grant funding to cover the costs of the fees for respite program participants. This would ensure consistent use of the program, consistent revenue for the program, and a financial relief to caregivers.

- There is uncertainty about how the overnight respite program offered in adult day care centers would affect similar respite services currently offered in by other types of providers such as adult care homes and nursing homes. It is uncertain how many people utilize respite care in these other types of facilities and how much revenue these facilities gain from the service. It could be reasonably assumed that these other provider types may lose some revenue to the new respite programs offered in adult day care centers, especially if consumers already participate in the adult day care program and are familiar with the staff and services at that facility. Essentially, revenues may be shifted from one provider type to another.
- There is uncertainty about whether these rules for the overnight respite in adult day care programs would stay in place longer than the three years of the pilot program and if more providers would be added to the program. The Department is charged with submitting an annual report to the legislature regarding program outcomes. Depending on the results of these reports and program participant feedback and decisions made by the legislature, the program rules may be changed or the program may be eliminated.

## **Alternatives**

The Department has been mandated by the General Assembly with the enactment of Session Law 2011-104 to implement the pilot program for overnight respite services in adult day care centers. The specific parameters outlined in the law for the administration of this program allow for little to no opportunities for the Department to consider alternatives that would decrease the cost of the program on various entities. The alternative for maintaining the “status quo” is not an option for the Department.

However, as required by G.S. 150B-21.4 for fiscal impact analysis of rules, the following alternatives could have been or were considered by the Department, but were not included in the requirements because they would limit the potential effectiveness of the pilot program or increase its costs:

- Session Law 2011-104 requires the Department to select “up to four” providers to participate in the pilot program. In order to comprehensively evaluate the program’s value and effectiveness the Department chose to allow the maximum of four adult day care center providers to participate in the pilot. Choosing to allow the maximum number of participants increased the cost of the program (and its rules); however, the benefits are also likely to be higher. The impact would have been lower had the Department chosen to allow less participants. However, again, the Department feels strongly that allowing four providers to participate would enable the General Assembly to make future decisions based on more accurate information with representation from various providers in various areas across the state.
- The program requirements could have required that medications be administered by licensed nurses only instead of non-licensed staff who are trained and competency validated to administer medications. This requirement would have significantly increased the costs to the provider as it is much more costly to hire a licensed nurse than it is to hire non-licensed personnel for this task, and therefore, it was not included in the rules.
- The program requirements could have set stricter limits on certain aspects of the overnight respite program such as the number of residents and a minimum number of continuous nights of service. For example, the Department could have required a minimum number of residents use the service at the same time to promote more socialization and ensure maintenance of safe staffing levels. This was not made a requirement so as not to limit providers and allow the service to be easily accessible to caregivers and available when needed. Or, the Department could have required a ‘minimum nights stay’. For example, it could have required that any client using the overnight respite service stay at least a minimum of five nights to ensure that providers have an opportunity to become more familiar with the client and their needs and personal preferences. This was not made a requirement because it would, again, limit providers and would not allow the service to be easily accessible to caregivers and available when needed. Also, the four pilot programs indicated that the clients they will be serving in their overnight respite programs are already clients of their adult day care programs, so staff are already familiar with each client’s needs and preferences.

## APPENDIX 1

10A NCAC 14D is proposed for adoption as follows:

### CHAPTER 14 – DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION

#### SUBCHAPTER 14D - OVERNIGHT RESPITE IN CERTIFIED ADULT DAY CARE PROGRAMS

##### SECTION .0100 – SCOPE AND DEFINITIONS

###### 10A NCAC 14D .0101 SCOPE

This Subchapter sets forth rules for certified adult day care programs offering overnight respite services pursuant to S.L. 2011-104.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

###### 10A NCAC 14D .0102 DEFINITIONS

The following definitions apply throughout this Subchapter:

- (1) “Adult day care program” means a facility certified by the Department of Health and Human Services, Division of Aging and Adult Services pursuant to G.S. 131D-6.
- (2) “Overnight respite services” means services that consist of 24-hour supervision and personal care services provided for persons on a temporary basis for caregiver relief, not to exceed 14 consecutive days or no more than 60 total calendar days per individual resident in a 365-day period and is provided by an adult day care program.
- (3) “Personal care” means tasks such as assistance with personal hygiene and grooming, feeding, ambulation and other health care needs.
- (4) “Resident” means the recipient of the overnight respite services.
- (5) “Supervision” means visual monitoring of residents to determine the need for assistance.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

## SECTION .0200 – PHYSICAL PLANT RULES

### 10A NCAC 14D .0201 SUBMISSION OF INFORMATION TO THE DIVISION OF HEALTH SERVICE REGULATION CONSTRUCTION SECTION

(a) Prior to operation, an applicant for overnight respite services shall submit the following forms and reports to the Division of Health Service Regulation (DHSR) Construction Section:

- (1) an approval letter from the local zoning jurisdiction for the proposed location;
- (2) a photograph of each side of the existing structure and at least one of each of the interior spaces if an existing structure; and
- (3) a set of blueprints of each level indicating:
  - (A) the layout of all rooms;
  - (B) room dimensions (including closets);
  - (C) door widths (exterior, bedroom, bathroom and kitchen doors);
  - (D) window sizes and window sill heights;
  - (E) type of construction; and
  - (F) the proposed resident bedroom locations including the number of occupants in each bedroom.

(b) The Construction Section shall review the information and notify the applicant in letter of required changes that must be made to the building to meet the rules of this Section along with the North Carolina State Building Code. The letter shall also contain a list of final documentation required from the local jurisdiction that must be submitted upon completion of any required changes to the building or completion of construction.

(c) Any changes made during construction that were not proposed during the initial review require the approval of the Construction Section to assure physical plant rule requirements are met.

(d) Upon receipt of the required final documentation from the local jurisdiction, the Construction Section shall review the information and may either make an on-site visit or approve the overnight respite services for construction by documentation. If all items are met, the Construction Section shall notify the DHSR Adult Care Licensure Section of its recommendation for approval.

(e) Following review of the application, references, all forms and the Construction Section's recommendation for use, a pre-approval visit shall be made by a consultant of the DHSR Adult Care Licensure Section. The consultant shall report findings and recommendations to the Adult Care Licensure Section which shall notify, in writing, the Division of Aging and Adult Services and the applicant of the decision to approve or deny overnight respite services as a part of the adult day care program that is planning to provide the services.

History Note: Authority S.L. 2011-104;

Temporary Adoption Eff. January 1, 2012;

Eff. October 1, 2012.

#### **10A NCAC 14D .0202 CAPACITY**

- (a) The Department shall not approve a capacity for an overnight respite service of more than six residents.
- (b) The total number of residents shall not exceed the capacity approved by the Construction Section.
- (c) A request for an increase in capacity by adding rooms, remodeling or without any building modifications shall be submitted to the Construction Section, accompanied by two copies of blueprints or floor plans. One of the plans shall show the existing building with the current use of rooms and the second plan shall indicate the addition, remodeling or change in use of spaces showing the use of each room. If new construction, plans shall show how the addition will be tied into the existing building and all proposed changes in the structure.
- (d) When the overnight respite services program increases its designed capacity by the addition to or remodeling of the existing physical plant, the entire program shall meet all current fire safety regulations.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0203 DESIGN AND CONSTRUCTION**

- (a) Any adult day care program intending to provide overnight respite services for the first time shall meet the applicable requirements of the North Carolina State Building Code. All new construction, additions and renovations to existing buildings shall meet the requirements of the North Carolina State Building Code. All applicable volumes of The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments, may be purchased from the North Carolina Department of Insurance Engineering Division for \$653.25.
- (b) Each facility in which overnight respite services is provided shall be constructed, equipped and maintained to provide the services offered.
- (c) Any existing building converted from another use that the adult day care program intends to use for overnight respite services shall meet all the requirements contained in this subchapter and the requirements for a certified adult day care program as specified in 10A NCAC 06R.
- (d) For any overnight respite care services program that was terminated by DHSR pursuant to Section 1(c) of S.L. 2011-104, if the space remains terminated for at least 60 days, the space shall meet all applicable requirements for a new service facility prior to again being allowed to offer services.
- (e) Any existing adult day care program intending to offer overnight respite care services that is planning new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his or her appointed representative to the Construction Section for review and approval prior to commencement of the work.
- (f) If the building to be used for overnight respite care services is two stories in height, it shall meet the following requirements:

- (1) construction, shall not exceed the allowable area for occupancy in the North Carolina State Building Code;
- (2) residents shall not be housed on any floor above or below grade level; and
- (3) required resident facilities shall not be located on any floor above or below grade level.
- (g) The basement and the attic shall not to be used for storage or sleeping.
- (h) The ceiling shall be at least seven and one-half feet from the floor.
- (i) Steps between levels are not permitted.
- (j) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms and bathrooms.
- (k) All windows shall be maintained operable.
- (l) The local code enforcement official shall be consulted before starting any construction or renovations for information on required permits and construction requirements.
- (m) The building shall meet sanitation requirements as determined by rules adopted by the Commission for Public Health.
- (n) The building shall have current sanitation and fire and building safety inspection reports which are maintained in the facility and available for review.
- (o) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated by reference with all subsequent amendments and can be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of \$79.00.
- (p) The facility shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated by reference with all subsequent amendments and can be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of \$79.00.

History Note: Authority S.L. 2011-104;

Temporary Adoption Eff. January 1, 2012;

Eff. October 1, 2012.

#### **10A NCAC 14D .0204 LOCATION**

- (a) An adult day care program offering overnight respite care services shall be in a location approved by local zoning boards.
- (b) The facility shall be located so that hazards will not threaten the health, safety and welfare of the residents and staff.
- (c) The site where overnight respite care services are to be provided shall:

- (1) be accessible by streets, roads and highways and be maintained for motor vehicles and emergency vehicle access;
- (2) be accessible to fire fighting and other emergency services;
- (3) have a water supply, sewage disposal system, garbage disposal system and trash disposal system approved by the local health department having jurisdiction;
- (4) meet all local ordinances; and
- (5) be free from exposure to waste material that contaminates the air, soil or water known to the applicant or licensee.

History Note: Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

#### **10A NCAC 14D .0205 LIVING ARRANGEMENT**

An adult day care program offering overnight respite care services shall provide living arrangements to meet the individual needs of the residents.

History Note: Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

#### **10A NCAC 14D .0206 LIVING ROOM**

- (a) An adult day care program offering overnight respite care services shall have a living area of at least 40 square feet per person. This area may be shared with the adult day care program activities and craft areas if the adult day care program requirements are met.
- (b) All living rooms shall have operable windows to meet the North Carolina State Building Code and be lighted to provide 30 foot candles of light at floor level.

History Note: Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

#### **10A NCAC 14D .0207 DINING ROOM**

- (a) An adult day care program offering overnight respite care services shall have a dining room or area of at least 20 square feet per person. The dining room may be used for other activities during the day. This area may be shared with the adult day care program activities and craft areas if the adult day care program requirements are met.
- (b) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space in front of the kitchen work areas. The work space shall not be used as the dining area.
- (c) The dining room shall have operable windows and be lighted to provide 30 foot candles of light at floor level.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0208 KITCHEN**

- (a) The kitchen shall be large enough to provide for the preparation and preservation of food and the washing of dishes. This requirement may be shared with the adult day care program.
- (b) The cooking unit shall be mechanically ventilated to the outside or be an unvented, recirculation fan provided with any filter as required by manufacturers' instructions for ventless use.
- (c) The kitchen floor shall have a non-slippery water-resistant covering.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0209 BEDROOMS**

- (a) There shall be bedrooms sufficient in number and size to meet the individual needs according to age and sex of the residents.
- (b) Only rooms authorized by the Construction Section as bedrooms shall be used for bedrooms.
- (c) A room where access is through a bathroom, kitchen or another bedroom shall not be approved for a resident's bedroom.
- (d) There shall be a minimum area of 100 square feet, including vestibule, closet or wardrobe space, in rooms occupied by one person and a minimum area of 160 square feet, including vestibule, closet or wardrobe space, in rooms occupied by two persons.
- (e) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Construction Section for that particular bedroom.
- (f) A bedroom shall not be occupied by more than two residents.



(g) Each resident bedroom must have one or more operable windows and be lighted to provide 30 foot candles of light at floor level. The window area shall be equivalent to at least eight percent of the floor space. The windows shall have a maximum of 44 inch sill height.

(h) Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 22 cubic feet of clothing storage of which at least one-half shall be for hanging clothes with an adjustable height hanging bar.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0210 BATHROOM**

(a) An adult day care program offering overnight respite care services shall have one bathroom for each six or fewer respite persons. The bathroom may be shared with the adult day care program if the adult day care program requirements are met.

(b) The bathrooms shall be designed to provide privacy. A bathroom with two or more water closets (commodes) shall have privacy partitions or curtains for each water closet. Each tub or shower shall have privacy partitions or curtains.

(c) Entrance to the bathroom shall not be through a kitchen, another person's bedroom, or another bathroom.

(d) The required residents' bathrooms shall be located so that there is no more than 40 feet from any residents' bedroom door to a resident use bathroom door.

(e) Hand grips shall be installed at all commodes, tubs and showers used by the residents.

(f) Nonskid surfacing or strips must be installed in showers and bath areas.

(g) The bathrooms shall be lighted to provide 30 foot candles of light at floor level and have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. These vents shall be vented directly to the outdoors.

(h) The bathroom floor shall have a non-slippery water-resistant covering.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0211 STORAGE AREAS**

(a) Storage areas shall be adequate in size and number for separate storage of clean linens, soiled linens, food and food service supplies, and household supplies and equipment.

(b) There shall be separate locked areas for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, inhaled or handled.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0212 CORRIDOR**

(a) Corridors shall be lighted with night lights providing one foot-candle power at the floor.

(b) Corridors shall be free of all equipment and other obstructions.

(c) Corridors shall be equipped with smoke detection that are connected to the building fire alarm system. Heat detectors are required in attics and basements and connected to the fire alarm system.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0213 OUTSIDE ENTRANCE AND EXITS**

(a) An adult day care program offering overnight respite care services shall have at least two exits on all floor levels. If there are only two, the exit or exit access doors shall be so located and constructed to minimize the possibility that both may be blocked by any one fire or other emergency condition.

(b) At least one entrance and one exit door shall have a minimum width of three feet and another shall be a minimum width of two feet and eight inches.

(c) At least one principal outside entrance and exit for the residents' use shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance and exit is one that is most often used by residents for vehicular access. If the program serves any resident that must have physical assistance with evacuation, the building shall have two outside entrances and exits at grade level or accessible by a ramp.

(d) All exit door locks shall be easily operable, by a single hand motion, from the inside all times without keys. Existing deadbolts or turn buttons on the inside of exit doors shall be removed or disabled.

(e) All entrances and exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

(f) All steps, porches, stoops and ramps shall be provided with handrails and guardrails.

(g) In adult day care programs offering overnight respite care services with at least one resident who is determined by a physician or is otherwise known to be disoriented or a wanderer, each exit door for resident use shall be equipped with a sounding device that is activated when the door is opened. The sound shall be of sufficient volume that it can be heard by staff. If a central system of remote sounding devices is provided, the control panel for the

system shall be located in the office area or in a location accessible only to staff authorized by the administrator to operate the control panel.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0214 LAUNDRY ROOM**

If the facility uses laundry equipment, the equipment shall be located out of the living, dining, and bedroom areas.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0215 FLOORS**

(a) All floors shall be of smooth, non-skid material and so constructed as to be cleanable.

(b) Scatter or throw rugs shall not be used.

(c) All floors shall be kept in good repair.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0216 HOUSEKEEPING AND FURNISHINGS**

(a) Each adult day care program offering overnight respite care services shall:

(1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;

(2) have no lingering unpleasant odors;

(3) have furniture clean and in good repair;

(4) have a North Carolina Division of Public Health approved sanitation classification at all times;

(5) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;

(6) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets, and additional coverings adequate for resident use on hand at all times;

(7) make available the following items as needed through any means other than charge to the personal funds:

(A) protective sheets and clean, absorbent, soft and smooth pads;

- (B) bedpans, urinals, hot water bottles, and ice caps; and
    - (C) bedside commodes, walkers, and wheelchairs.
  - (8) have television and radio, each in good working order;
  - (9) have curtains, draperies or blinds at windows in resident use areas to provide for resident privacy;
  - (10) have recreational equipment, supplies for games, books, magazines and a current newspaper available for residents;
  - (11) have a clock that has numbers at least 1½ inches tall in an area commonly used by the residents; and
  - (12) have at least one telephone that does not depend on electricity or cellular service to operate.
- (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:
  - (1) beds equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. A hospital bed shall be arranged for as needed. A water bed is allowed if requested by a resident and permitted by the program. Each bed shall have the following:
    - (A) at least one pillow with clean pillow case;
    - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
    - (C) clean bedspread and other clean coverings as needed.
  - (2) a bedside type table;
  - (3) a chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
  - (4) a wall or dresser mirror that can be used by each resident;
  - (5) a minimum of one comfortable chair (rocker or straight, arm or without arms, as preferred by resident), high enough from floor for easy rising;
  - (6) additional chairs available, as needed, for use by visitors;
  - (7) individual clean towel, wash cloth, and towel bar within bedroom or adjoining bathroom; and
  - (8) a light overhead of bed with a switch within reach of person lying on the bed or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.
- (c) The living room shall have functional living room furnishings for the comfort of residents with coverings that are easily cleanable.
- (d) The dining room shall have the following furnishings:
  - (1) tables and chairs to seat all residents eating in the dining room; and
  - (2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and designed to minimize tilting.

History Note: Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

#### **10A NCAC 14D .0217 FIRE SAFETY AND DISASTER PLAN**

(a) Fire extinguishers shall be provided which meet these minimum requirements:

- (1) one five pound or larger (net charge) "A-B-C" type centrally located;
- (2) one five pound or larger "A-B-C" or CO/2 type located in the kitchen; and
- (3) at any other location as determined by the code enforcement official.

(b) The building shall be provided with smoke detectors as required by the North Carolina State Building Code and Underwriters Laboratory (U.L.) listed heat detectors connected to a dedicated sounding device located in the attic and basement. These detectors shall be interconnected and be provided with battery backup.

(c) Any fire safety requirements required by city ordinances or county building inspectors shall be met.

(d) A written fire evacuation plan (including a diagrammed drawing) which has the approval of the local code enforcement official shall be prepared and posted in a central location on each floor. The plan shall be reviewed with each resident on enrollment and shall be a part of the orientation for all new staff.

(e) There shall be at least four rehearsals of the fire evacuation plan each year. Records of rehearsals shall be maintained. The records shall include the date and time of the rehearsals, staff members present, and a description of what the rehearsal involved.

(f) A written disaster plan which has the written approval of, or has been documented as submitted to, the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters, shall be prepared and updated at least annually and shall be maintained in the adult day care programs offering overnight respite care services. This written disaster plan requirement applies to new and existing programs.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0218 BUILDING SERVICE EQUIPMENT**

(a) The building and all fire safety, electrical, mechanical and plumbing equipment shall be maintained in a safe and operating condition.

(b) There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected so as to avoid hazards to residents and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.

(c) Air conditioning shall provide conditions not to exceed 81 degrees F (27 degrees C).

(d) The hot water tank shall be of such size to provide as much hot water as is needed by the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

(e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:

- (1) 30 foot-candle power for reading;
- (2) 10 foot-candle power for general lighting; and
- (3) one foot-candle power at the floor for corridors at night.

(f) Fireplaces, fireplace inserts and wood stoves shall be designed or installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves must be U.L. listed.

(g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building department and protected by a guard or screen to prevent residents and furnishings from burns.

(h) Alternate methods, procedures, design criteria and functional variations from the requirements of this Rule or other rules in this Section, shall be approved by the Construction Section when the facility can effectively demonstrate to the Section's satisfaction that the intent of the requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility.

*History Note: Authority S.L. 2011-104;*  
*Temporary Adoption Eff. January 1, 2012;*  
*Eff. October 1, 2012.*

#### **10A NCAC 14D .0219 OUTSIDE PREMISES**

(a) The outside grounds of any adult day care program offering overnight respite care services shall be maintained in a clean and safe condition.

(b) If the facility has a fence around the premises, the fence shall not prevent residents from exiting or entering freely or be hazardous.

(c) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

*History Note: Authority S.L. 2011-104;*  
*Temporary Adoption Eff. January 1, 2012;*  
*Eff. October 1, 2012.*

### **SECTION .0300 - PROGRAM MANAGEMENT**

#### **10A NCAC 14D .0301 PLANNING PROGRAM ACTIVITIES**

(a) Each adult day care program offering overnight respite care services shall have enrollment policies. Enrollment policies shall be in writing as a part of the program policies and shall define the population served. These policies shall serve as the basis for determining who will be accepted into the program and for planning activities appropriate for the residents. The policies shall prevent enrolling people whose needs cannot be met by the

planned activities and shall provide for discharge of residents whose needs can no longer be met or who can no longer be cared for safely. If an adult day care program offering overnight respite care services serves semi-ambulatory or non-ambulatory persons, it shall be stated in the enrollment criteria.

(b) Prior to enrollment, the applicant, family members or other caregiver shall have a minimum of one personal interview with a minimum of one program staff member. During the interview, the staff shall complete initial documentation identifying social and medical care needs; any designated spiritual, religious or cultural needs; and a determination of whether the program can meet the individual's expressed needs. The staff person doing the interviewing shall sign the determination of needs and the applicant, family member or other caregiver shall sign the application for enrollment. These signed documents shall be obtained before the individual's first day of attendance as a resident in the program.

(c) A medical examination report signed by a physician, nurse practitioner or physician's assistant, completed within the prior three months, shall be obtained by the program at the time of enrollment. The report must be updated annually no later than the anniversary date of the initial report.

(d) At enrollment or in the initial interview, the program policies shall be discussed with the applicant, family member or other caregiver and a copy of the program policies shall be provided.

(e) Documentation of receipt of and agreement to abide by the program policies by the applicant, family member or other caregiver shall be obtained by the program and kept in the resident's file.

(f) The program policies shall contain:

(1) a discharge policy outlining:

(A) the criteria for discharge;

(B) notification procedures for discharge;

(C) the timeframe and procedures for notifying the applicant, family member or other caregiver of discharge;

(D) referral or follow-up procedures; and

(2) a medication policy as specified in Section .0600 of this Subchapter;

(3) a description of resident's rights;

(4) grievance policies and procedures for families;

(5) the advance directives policy;

(6) non-discrimination policies;

(7) the procedure to maintain confidentiality;

(8) the policy on reporting suspected abuse or neglect;

(9) the policy on reporting of resident accidents or incidents to family members or medical providers;

(10) the policy on infection control and universal precautions;

(11) a description of the geographical area served by the program; and

(12) inclement weather policies.

*History Note: Authority S.L. 2011-104;*

Temporary Adoption Eff. January 1, 2012;

Eff. October 1, 2012.

#### **10A NCAC 14D .0302 ADMINISTRATOR**

(a) An administrator shall be responsible for the total operations of the adult day care program offering overnight respite care services.

(b) At all times, there shall be one administrator or supervisor-in-charge who is directly responsible for assuring that all required duties are carried out and for assuring that at no time is a resident left alone without a staff member.

(c) The administrator must:

(1) be at least 18 years old;

(2) be at least a high school graduate or certified under the General Educational Development (GED) Program;

(3) work with bona fide inspectors and DHSR consultants;

(4) be free of tuberculosis disease that poses a direct threat to the health or safety of others;

(5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry;

(6) have documented evidence of managing or supervising personal care to others, for at least 6 months, from a previous employer; and

(7) be able to apply all accident, fire safety and emergency procedures for the protection of the recipients of the respite care services.

History Note: Authority S.L. 2011-104;

Temporary Adoption Eff. January 1, 2012;

Eff. October 1, 2012.

#### **10A NCAC 14D .0303 SUPERVISOR IN CHARGE**

(a) The supervisor-in-charge is responsible to the administrator for carrying out the overnight respite care program in the absence of the administrator.

(b) The supervisor-in-charge must meet the same requirements as the administrator.

History Note: Authority S.L. 2011-104;

Temporary Adoption Eff. January 1, 2012;

Eff. October 1, 2012.



## SECTION .0400 – ENROLLMENT TO OVERNIGHT RESPITE SERVICES

### 10A NCAC 14D .0401 ENROLLMENT OF RESIDENTS

(a) Any adult (18 years of age or over) who, because of a physical condition or mental disability, needs a substitute home for purpose of respite for the caregiver may be enrolled for overnight respite services when, in the opinion of the caregiver, family, resident, physician, or social worker and the administrator, the services and accommodations of the facility will meet the respite needs of the resident.

(b) Individuals shall not be admitted:

- (1) for treatment of mental illness, or alcohol or drug abuse;
- (2) for maternity care;
- (3) for professional nursing care under continuous medical supervision;
- (4) for lodging, when the personal assistance and supervision offered for the resident are not needed;
- or
- (5) who pose a direct threat to the health or safety of others.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

### 10A NCAC 14D .0402 PLANNING SERVICES FOR INDIVIDUAL RESIDENTS

(a) At enrollment of a new resident, the program shall perform an assessment and written service plan for each individual. The assessment shall address the individual's ability to perform activities of daily living while in the program. The mental and physical health status of the individual shall also be assessed. The service plan shall be signed and dated by the administrator or designee. The health component of the service plan shall be written and signed by a registered nurse.

(b) In developing the written service plan, the program shall include input from the enrollee, family members, or other caregiver and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs and abilities identified in the assessment. The assessment and service plan shall be reviewed to assure continued accuracy at each enrollment. The service plan shall include:

- (1) the needs and strengths of the resident;
- (2) the interests of the resident;
- (3) the measurable service goals and objectives of care for the resident while in the overnight respite program;
- (4) the type of interventions to be provided by the program in order to reach desired outcomes;
- (5) the services to be provided by the program to achieve the goals and objectives;
- (6) the roles of resident, family, caregiver, volunteers and program staff; and

- (7) the time limit for the plan, with provision for review and renewal.
- (c) Progress notes in the resident's record shall be updated every 24 hours while in the program.
- (d) The resident, caregiver, and other service providers may contribute to the development, implementation and evaluation of the service plan.
- (e) Any unusual behavior, change in mood, change in attitude or need for help or services shall be reported by the program. The report shall be made to the resident's family, caregiver, or responsible party. A note shall be made in the resident's record of action taken.
- (f) The resident or the responsible party may choose the days and number of days the resident will attend, with the administrator's approval.
- (g) The reason for any unscheduled resident absence shall be determined by the program staff and documented on the day it occurs. The program shall attempt to contact the absent resident or the responsible party.
- (h) The overnight respite care program is responsible for the resident while the resident is enrolled. A resident leaving the program for part of a day shall sign out relieving the staff of further responsibility. If a resident has emotional or mental impairment which requires supervision and that person needs or wants to leave the program during the day, the social worker, family, caregiver, friend, or responsible party shall sign the person out.

*History Note:* Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

## **SECTION .0500 - STAFFING**

### **10A NCAC 14D .0501 STAFFING**

- (a) The staffing pattern shall be adequate to meet the needs of each overnight respite services program resident, with a minimum of at least one staff present at all times.
- (b) Services required beyond personal care and supervision shall be provided by a licensed professional if required by law.

*History Note:* Authority S.L. 2011-104;  
Temporary Adoption Eff. January 1, 2012;  
Eff. October 1, 2012.

## **10A NCAC 14D .0502 STAFF**

(a) Each staff person must:

- (1) have a job description that reflects actual duties and responsibilities and is signed by the administrator and the employee;
- (2) be able to apply all of the home's accident, fire safety and emergency procedures for the protection of the residents;
- (3) be informed of the confidential nature of resident information and protect and preserve the information from unauthorized use and disclosure;
- (4) not hinder or interfere with the exercise of the rights as defined by program policy;
- (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;
- (6) have a criminal background check in accordance with G.S. 114-19.10 and G.S. 131D-40; and
- (7) work with bona fide inspectors and the monitoring and licensing agencies toward meeting and maintaining the rules of this Subchapter.

(b) Any staff member left in charge of the care of residents shall be 18 years or older.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

## **SECTION .0600 - MEDICATION ADMINISTRATION**

### **10A NCAC 14D .0601 MEDICATION ADMINISTRATION**

(a) All adult day care programs offering overnight respite services shall develop and implement policies and procedures on resident medication use, medication administration, order changes and medication disposal.

(b) Medications shall be administered according to the resident's medication schedule. The medication schedule shall list all medications with dosages and times medications are to be administered.

(c) A record of all medications given to each participant shall be updated as needed and shall document the following:

- (1) the resident's name;
- (2) the name, dosage, quantity and route of the medication;
- (3) instructions for giving medication;
- (4) the date and time medication is administered; and
- (5) the name or initials of person giving the medication. If initials are used, a signature equivalent to those initials shall be entered on this record.

(d) Medications shall be kept in the original pharmacy containers in which they were dispensed. The containers shall be labeled with the resident's full name, the name and strength of the medicine, and dosage and instructions for administration. Medicines shall be kept in a locked location.

(e) Only adult day health or adult day care and day health combination programs shall enroll or serve residents who require intravenous, intramuscular or subcutaneous medications while attending the program.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0602 MEDICATION ADMINISTRATION COMPETENCY EVALUATION**

(a) The competency evaluation for medication administration shall include the staff person having passed the standardized written exam established by the Department and a clinical skills validation by a registered nurse or registered pharmacist consist with the North Carolina occupational licensing laws.

(b) Validation of each staff's competency to administer medications must be completed prior to administering medications.

(c) In lieu of meeting (a) and (b) of this rule, the staff may demonstrate completion of the medication aide requirements as established by GS 131E-114.2 and applicable rules.

(d) A licensed health professional must be available for consultation with staff if needed and shall be documented.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0603 MEDICATION ADMINISTRATION POLICIES AND PROCEDURES**

An adult day care program offering overnight respite care services must develop and implement written policies and procedures regarding processes used for:

- (1) written directions provided for staff administering medications;
- (2) documentation of medication administration;
- (3) maintenance of documentation;
- (4) documentation and reporting of medication errors; and
- (5) medication disposition.

*History Note: Authority S.L. 2011-104;*

*Temporary Adoption Eff. January 1, 2012;*

*Eff. October 1, 2012.*

## **SECTION .0700 – NUTRITION AND FOOD SERVICE**

### **10A NCAC 14D .0701    FOOD PROCUREMENT AND SAFETY**

- (a) The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.
- (b) All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.
- (c) All meat processing shall occur at a United States Department of Agriculture (USDA) approved processing plant.
- (d) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the menus, for both regular and therapeutic diets.

*History Note:    Authority S.L. 2011-104;*

*Eff. October 1, 2012.*

### **10A NCAC 14D .0702    FOOD PREPARATION AND SERVICE**

- (a) Sufficient staff, space and equipment shall be provided for safe and sanitary food storage, preparation and service.
- (b) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, plate and beverage containers. Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.
- (c) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

*History Note:    Authority S.L. 2011-104;*

*Eff. October 1, 2012.*

### **10A NCAC 14D .0703    MENUS**

- (a) Menus shall be prepared according to the USDA Dietary Guidelines for Americans which is incorporated by reference with all subsequent amendments and is available at no cost on the internet website, <http://www.health.gov/dietaryguidelines>.
- (b) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.
- (c) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic diets and documented to indicate the foods actually served to residents.
- (d) Menus shall be planned to take into account the food preferences and customs of the residents.

(e) All menus including all therapeutic diets shall be planned or reviewed by a licensed dietitian/nutritionist as required by G.S. Chapter 90, Article 25. The facility shall maintain verification of the dietitian's approval of the therapeutic diets which shall include an original signature by the dietitian and the licensure number of the dietitian.

(f) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

*History Note: Authority S.L. 2011-104;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0704 FOOD REQUIREMENTS**

(a) Each adult day care program offering overnight respite care services shall be served a minimum of three meals a day at regular hours with at least 10 hours between the breakfast and evening meals.

(b) Foods and beverages that are appropriate to overnight respite residents' diets shall be offered or made available to overnight respite residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.

*History Note: Authority S.L. 2011-104;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0705 THERAPEUTIC DIETS**

(a) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician.

(b) Where applicable, the therapeutic diet order shall be specific to calorie, gram or consistency, such as for calorie controlled American Diabetic Association diets, low sodium diets or thickened liquids, unless there are written orders which include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a licensed dietitian/nutritionist.

(c) The facility shall maintain an accurate and current listing of overnight respite residents with physician-ordered therapeutic diets for guidance of food service staff.

*History Note: Authority S.L. 2011-104;*

*Eff. October 1, 2012.*

#### **10A NCAC 14D .0706 FEEDING ASSISTANCE**

(a) Sufficient staff shall be available for individual feeding assistance as needed.

(b) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

*History Note: Authority S.L. 2011-104;*  
*Eff. October 1, 2012.*

**10A NCAC 14D .0707 ACCOMMODATION OF RESIDENT NEEDS AND PREFERENCES**

Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the overnight respite resident's record.

*History Note: Authority S.L. 2011-104;*  
*Eff. October 1, 2012.*

**SECTION .0800 - PROGRAM ACTIVITIES**

**10A NCAC 14D .0801 ACTIVITIES PROGRAM**

- (a) Each adult day care program offering overnight respite care services shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.
- (b) If there is a question about a resident's ability to participate in an activity, the resident, the resident's physician, family or responsible party shall be consulted to obtain a statement regarding the resident's capabilities.

*History Note: Authority S.L. 2011-104;*  
*Temporary Adoption Eff. January 1, 2012;*  
*Eff. October 1, 2012.*